

BEFORE THE ARIZONA BOARD OF

OSTEOPATHIC EXAMINERS IN MEDICINE AND SURGERY

IN THE MATTER OF:

) Case No.

MICHAEL LAWRENCE BERMAN, D.O.
Holder of License No. 3432 for the
practice of osteopathic medicine in the
State of Arizona.

)
)
) STIPULATION AND CONSENT
) ORDER SUSPENSION OF LICENSE
)
)
)

STIPULATION

By mutual agreement and understanding, the Arizona Board of Osteopathic Examiners (hereafter "Board") and Michael Lawrence Berman, D.O. (hereinafter "Respondent"), the parties hereto agree to the following disposition to this matter.

1. Respondent acknowledges that he has read this Stipulation and the attached Consent Order; and, Respondent is aware of and understands the content of these documents.

2. Respondent understands that by entering into this Stipulation, he voluntarily relinquishes any rights to a hearing on the matters alleged as grounds for Board action or to seek judicial review of the consent order in state or federal court.

3. Respondent understands that this Stipulation and Consent Order will not become effective unless approved by the Board and signed by its Executive Director.

4. Respondent further understands that this Stipulation and Consent Order, once approved and signed, shall constitute a public records which will be disseminated as a formal action of the Board as required by A.R.S. §§ 32-1855 (L) and (K).

5. Respondent admits to the statement of facts and conclusions of law contained in the Stipulated Consent Order.

6. All admissions made by Respondent are solely for final disposition of this matter and any subsequent administrative proceedings or litigation involving the Board, Respondent and the State of Arizona; and, therefore, said admissions by Respondent are not intended for any other purpose or administrative regulatory proceeding or litigation in another state or federal court.

7. Respondent acknowledges and agrees that upon signing and returning this document (or a copy thereof) to the Board's Executive Director, he may not later revoke or amend this Stipulation or any part of the Consent Order, although said Stipulation has not yet been accepted by the Board and issued by its Executive Director, without first obtaining Board approval.

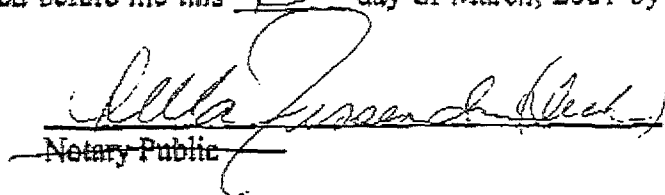
REVIEWED AND ACCEPTED this _____ day of March, 2001.



Michael Lawrence Berman, D.O.

STATE OF ARIZONA)
) ss
County of Maricopa)

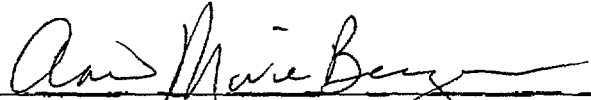
This instrument was acknowledged before me this 15 day of March, 2001 by the above-named individual.


Notary Public

My Commission expires:

REVIEWED AND APPROVED as to form by counsel for Respondent on this ____ day of
March, 2001.

REVIEWED AND SIGNED this 16th day of March, 2001 for the Board by:



Ann Marie Berger, Executive Director
Arizona Board of Osteopathic Examiners in Medicine
and Surgery

**BEFORE THE ARIZONA BOARD OF
OSTEOPATHIC EXAMINERS IN MEDICINE AND SURGERY**

IN THE MATTER OF:)

MICHAEL LAWRENCE BERMAN, D.O.)
Holder of License No. 3432 for the)
practice of osteopathic medicine)
in the State of Arizona.)

**CONSENT ORDER FOR TEMPORARY
SUSPENSION OF LICENSE**

FINDINGS OF FACT

1. The Board is empowered, pursuant to A.R.S. § 32-1800, et seq to regulate the licensing and practice of osteopathic medicine in the State of Arizona.

2. Respondent is a licensee of the Board and the holder of License No. 3432 for the practice of osteopathic medicine in the State of Arizona.

3. Information was brought to the attention of the Board that Respondent may be medically and/or psychologically unable to safely and skillfully engage in the practice of medicine and/or may have committed one or more acts of unprofessional conduct as defined in A.R.S. § 32-1854:

A. On or about March 13, 2001 Respondent voluntarily reported that he was receiving treatment for substance abuse at Sierra Tucson Rehabilitation Center. Respondent stated that his drug of choice is alcohol but was also using oxycodone. Upon questioning, Respondent stated that he never wrote a prescription for himself or falsified any prescriptions for the oxycodone, but "bought it on the streets".

4. The Board voted in public session on March 16, 2001 to enter into a Stipulation and Consent Order for Suspension of License with Respondent. Respondent agreed to have his medical license suspended while he receives an evaluation for possible impairment and/or alcoholism at

Sierra Tucson.

CONCLUSIONS OF LAW

The aforementioned conduct alleged against Respondent constitutes unprofessional conduct as defined at A.R.S. § 32-1855:

- (6) Engaging in the practice of medicine in a manner that harms or may harm a patient or that the Board determines falls below the community standard.
- (22) Using controlled substances or prescription-only drugs unless they are provided by a medical practitioner, as defined in section 32-1901, as part of a lawful course of treatment.
- (40) Any conduct or practice that endangers a patient's or the public's health or may reasonably be expected to do so.
- (41) Any conduct or practice that impairs the licensee's ability to safely and skillfully practice medicine or that may reasonably be expected to do so.

ORDER

Pursuant to the authority vested in the Board, **IT IS HEREBY ORDERED THAT:**

1. Michael Lawrence Berman, D.O. ("Respondent") shall refrain from the practice of osteopathic medicine and surgery until he has complied with the following terms and conditions of this agreement:

- a. Respondent will successfully complete the in-patient evaluation for possible chemical dependency at Sierra Tucson Rehabilitation Center in Tucson, Arizona (hereinafter "Sierra Tucson"). Should Sierra Tucson find an assessment of chemical dependency, Respondent will follow the recommendations for treatment.
- b. Respondent will develop a plan for aftercare treatment and monitoring which shall include, but may not be limited to, individual and/or group counseling sessions, random body fluid testing, agreement for release of treatment records and reports to the Board, prohibition of the use of alcohol, including any over the counter medications or medications containing alcohol, and controlled substances unless the latter is prescribed or coordinated by her treating physician, and regular meetings with the Board, and submit this plan to the Board for its approval.

2. Respondent will sign a release authorizing personnel at Sierra Tucson to inform the Board of his progress as to his in-patient evaluation and any in-patient treatment program, and will provide the Board with a copy of any and all records pertinent to his diagnosis and treatment while a patient at said facility and upon discharge.

3. Upon written request by the Respondent, Respondent will meet with the Board upon reasonable notice after discharge from Sierra Tucson to discuss his compliance with this agreement and to discuss whether or not he should resume the practice of osteopathic medicine and the terms and conditions under which he will be allowed by the Board to resume the practice of osteopathic medicine and surgery in the State of Arizona.

4. Respondent shall provide a copy of this Order and any subsequent Orders to all facilities where Respondent is currently (or subsequently) employed as a physician and/or has (or subsequently receives) privileges to engage in the practice of medicine; and, Respondent shall continue to make the aforementioned disclosure and provide the copies of this Consent Order until the expiration of this Order. Respondent shall provide a copy of this Order and any subsequent Orders to all treating physicians, including emergency room physicians.

5. Should Respondent fail to comply with any of the terms and conditions of this stipulation and agreement, the Board may, upon notice and opportunity to be heard, take disciplinary action against his license to practice osteopathic medicine and surgery in the State of Arizona.

6. In the event Respondent ceases to reside in Arizona, he will give written notice to the Board of his new residence address within twenty (20) days of moving; and, the terms and duration of suspension may be stayed by the Board until Respondent returns to Arizona.

7. Respondent will continue to meet all licensing requirements such as continuing medical education and renewal requirements including applicable fees pursuant to A.R.S. § 32-1825.

8. The Board's Executive Director will send correspondence to the appropriate state and/or federal law enforcement agency disclosing information in the Board's possession which may establish criminal misconduct by Respondent.

9. The Board may require that Respondent as part of his suspension: (A) submit to and cooperate in any independent medical or psychological evaluation that is ordered by the Board for Respondent and conducted by the Board's designated physician/or psychologist which will be paid for by Respondent; and (B) appear before the Board, upon receipt of a request by written or telephonic notification from the Board's Executive Director which will be given at least five (5) days prior to the Board meeting; and, (C) submit to random biological fluid testing and promptly provide (i.e. within sixty (60) minutes of notification) required biological fluids for testing and said testing will be done at the Respondent's expense.

10. Respondent will reimburse the Board for all expenses associated with the investigation, hearing and continued monitoring of this matter within sixty days of receipt of the request for payment.

11. Respondent's failure to comply with the requirements of this Order shall constitute unprofessional conduct as defined at A.R.S. § 32-1854(26), as amended, and will be considered as grounds for further disciplinary action (e.g., suspension or revocation of license) in the event that Respondent fails to comply with any of the requirements of this Order.

ISSUED this 16th day of March, 2001.

ARIZONA BOARD OF OSTEOPATHIC EXAMINERS
IN MEDICINE AND SURGERY

By: Ann Marie Berger
Ann Marie Berger, Executive Director
9535 E. Doubletree Ranch Rd.
Scottsdale AZ 85258-5539

Served by personal service or
sending U.S. mail this 8th day of March, 2001 to:

^{10th}
Michael Lawrence Berman, D.O.
2525 E. Arizona Biltmore Circle
Phoenix, AZ 85016

Blair Driggs
Assistant Attorney General
Office of the Attorney General
1275 W. Washington
Phoenix AZ 85007

Arizona Board of Pharmacy
5060 N. 19th Ave., Suite 101
Phoenix AZ 85015

Drug Enforcement Administration
Attention: Diversion Section
3010 N. 2nd St
Phoenix AZ 85012

Celina Shepherd